IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE SEVENTH DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE L.NARASIMHA REDDY

WRIT PETITION NO : 1746 of 2005

Between:

U.K.Narasimhunlu, S/o.U.K.Lakshmana,
R/o.H.No.3-87, Uppar Street, Yemmigannur, Kurnool District.

..... PETITIONER

AND

1 The Joint Collector, Kurnool District.
2 The Revenue Divisional officer, Adoni, Kurnool District.
3 The Mandal Revenue officer, Yemmigannur, Kurnool District.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction more particularly one in the nature of writ of Mandamus declaring the action of the 2nd Respondent in proceedings Rc.M.1217/04 dt.19-01-2005 as illegal, arbitrary, mala fide against the provisions of Control order 2001 and consequently direct the respondents to restore the authorisation of the petitioner by suspending impugned proceedings pending the appeal before the 1st Respondent and pass such other order or orders as this Hon'ble court may deem fit and proper in the circumstances of the case.

Counsel for the Petitioner:MR.K.V.RAGHU VEER

Counsel for the Respondent No.: GP FOR CIVIL SUPPLIES

The Court at the admission stage made the following :

ORDER:

The petitioner is working as a fair price shop dealer of ward No.3 of Yemmigannur

Village, Kurnool District. The 2nd respondent issued a show cause notice, dated 14.12.2004 to the petitioner, directing him to explain as to why his authorization should not be suspended in view of the allegations contained therein. The petitioner submitted his explanation on 24.12.2004. On consideration of the same, the 2nd respondent passed an order, dated 19.01.2005 suspending the authorization of the petitioner. Aggrieved thereby, the petitioner preferred an appeal before the 1st respondent together with an application for stay. Through his order, dated 01.02.2005, the 1st respondent rejected the stay application. Hence, this writ petition.

Heard learned counsel for the petitioner and learned Government Pleader for Civil Supplies.

The 2nd respondent meticulously followed the procedure prescribed under Section 5(4) of the A.P.State Public Distribution Control Order, 2001 (for short 'the Control Order') in proceeding against the petitioner. He issued a show cause notice framing certain charges against the petitioner and directed him to explain as to why his authorization should not be suspended. The petitioner submitted his explanation. The 2nd respondent has undertaken extensive discussion in relation to charges and recorded his own findings. However, when it came up to the question of imposing the punishment, he simply suspended the authorization of the petitioner without indicating the period therefor.

The Control Order contemplates two types of substantive punishments against the dealer viz., the suspension and the cancellation of authorization. It is mandatory to issue show cause notice before any such punishments are inflicted. It is only a suspension pending enquiry that need not precede enquiry.

By its very nature, the suspension, by way of substantive punishment, is required to be for a particular period. It is true that the Control Order does not stipulate the period for which the authorization of a dealer can be suspended by way of penalty.

However, it has to be inferred that the suspension has to be for a specified period and such period has to be indicated by the appointing authority, depending on the gravity of the matter. There does not exist any scope for imposing the punishment of suspension for an indefinite period.

It is true that the petitioner availed the remedy of appeal and the 1st respondent rejected the application for stay. However, the basic infirmity that has been pointed out above can be rectified by the 2nd respondent alone. The 1st respondent cannot substitute his opinion for that of the 2nd respondent nor can he uphold the suspension for an indefinite period.

For the foregoing reasons, the writ petition is disposed of, directing the 2nd respondent to pass appropriate orders, within two weeks from the date of receipt of this order, indicating the period for which the suspension against the petitioner shall operate. In case no orders are passed by the 2nd respondent, the suspension against the petitioner shall be confined to a period of two months and on expiry of the same, the petitioner shall be entitled to function as dealer. The further steps shall depend on the outcome of the same.

In view of the order passed above, the appeal preferred before the 1st respondent becomes infructuous and no orders are need to be passed therein. There shall be no order as to costs.

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07.02.2005

Note: Issue C.C. in two days.

L.R.copy to be marked.

(B/o)

Jsu

To

One Fair copy to the Hon'ble Mr Justice L.Narasimha Reddy (for his lordship's kind perusal)

1 The Joint Collector, Kurnool District.
2 The Revenue Divisional officer, Adoni, Kurnool District.
3 The Mandal Revenue officer, Yemmigannur, Kurnool District.

4 2 CCs to the G.P. for Civil Supplies, High Court Buildings,

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